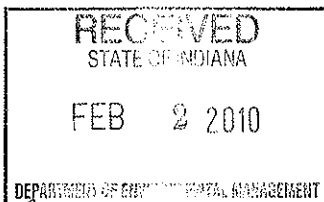


**Indiana Steel
Environmental
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January 29, 2010

Mary Ann Stevens
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OFFICIAL COMMENT

**Subject: LSA Document #08-764 – 2nd Notice of Comment Period
Development of New Rules and Amendments to Rules Concerning Antidegradation
Standards and Implementation Procedures**

Dear Ms. Stevens:

I am writing this letter on behalf of the Indiana Steel Environmental Group (ISEG) to provide comments on LSA #08-764, Development of New Rules and Amendments to Rules Concerning Antidegradation Standards and Implementation Procedures.

The Indiana Steel Environmental Group is a coalition of Indiana steel companies established to focus on environmental matters of concern to its members. The Indiana Steel Environmental Group (ISEG) consists of membership from ArcelorMittal USA, Inc., ArcelorMittal Indiana Harbor, LLC, United States Steel Gary Works, United States Steel Midwest Plant, ArcelorMittal Burns Harbor LLC, and Nucor Steel Crawfordsville.

The Indiana Steel Environmental Group's primary concern regarding antidegradation relates to the practical impacts of implementation. If not properly implemented, the program could place severe limitations on important social equity/improvement issues and economic progress for the affected communities, without resulting in any significant benefit to water quality. This will seriously impair attempts to revitalize existing brownfield communities and will compromise the competitiveness of existing industries within those communities by limiting their ability to expand or change technologies.

The antidegradation standard and implementation procedures for waters of the State should be crafted in a way that will be protective of the receiving waters and support the economic viability of existing industries and the affected communities. The ISEG offers the following comments on this Second Notice of Rulemaking.

Antidegradation Trigger

The ISEG believes that the requirement to perform an antidegradation review should only be triggered when a permittee requests either a higher limit for a parameter currently regulated under its NPDES permit or a limit for a parameter that had previously not been regulated by that permit. This type of trigger will not impede the renewal of existing NPDES permits that have been previously evaluated. In addition, this type of trigger


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provides certainty to the regulated community as to when a change in the operation might trigger a review and then allow for an evaluation by the permittee of the extent of the change in order to determine if it is either exempted, insignificant or causes a significant lowering of water quality. This type of pre-evaluation certainty is critical for industry personnel to evaluate the potential success of a capital investment project prior to any financial commitment.

327 IAC 2-1.3-4 - Exemptions

Wastewater Treatment Chemicals - The ISEG supports the inclusion of appropriate exemptions for properly applied wastewater treatment chemicals that are used to achieve NPDES discharge compliance.

316(a) Variances

The ISEG believes that the procedures for obtaining a 316(a) variance for temperature should, in-and-of themselves, be sufficient in satisfying antidegradation demonstration requirements because the procedures are intended to demonstrate that there are no adverse effects to the indigenous aquatic community as a result of the issuance of the variance.

327 IAC 2-1.3-2(43)

Pollutant of Concern - The ISEG is supportive of the definition of "Pollutant of Concern" for pollutants that are reasonably expected to be present in a discharge based on the source and nature of the discharge. However, the ISEG believes it is inappropriate to expand the definition to include pollutants contained in receiving waters that are beyond the control of a regulated facility. Atmospheric deposition of pollutants in receiving waters is an example of pollutants beyond the control of a regulated facility.

327 IAC 2-1.3-3(c)

Tributaries to OSRW's - The ISEG objects to placement of language concerning treatment of tributaries in the antidegradation standard thereby inappropriately designating many additional waters as OSRW's.

327 IAC 2-1.3-4(b)(1)(B)

De minimis provisions for OSRW's - IDEM's decision to establish de minimis allowances for OSRW's that are 1% (Tier I criteria), 2% (Tier II values), and 2.5% (cumulative cap) are extraordinarily stringent and are not based on applicable science relating to maintaining existing water quality. This is particularly true for Lake Michigan when EPA has supported a 10% de minimis under the Great Lakes Water Quality Guidance and neighboring states are allowing for a de minimis level in their antidegradation programs that is equivalent or even higher.

The ISEG does not believe that the de minimis/cumulative cap provisions for OSRW's should be more stringent than the corresponding provisions for high quality waters that are being used by neighboring states. In addition, it is the ISEG's contention that the more stringent provisions proposed for OSRW's do not comply with the requirements of SEA 431.

327 IAC 2-1.3-7(b)(3)

Requirement to hold a public meeting - The ISEG believes that IDEM should not make a determination on an antidegradation demonstration based on the requirement for the regulated entity to hold a public meeting. Holding a public meeting should be the responsibility of IDEM.

327 IAC 2-1.3-8

Water Quality Improvement Project – The ISEG believes that language should be inserted that reflects that the fee determination amount should be based on the percentage of the unused loading capacity that the proposed project consumes.

Variances

Discharges that have been granted variances should not also be required to submit an antidegradation demonstration because the application and review process for obtaining a variance is substantially the same as the antidegradation demonstration and review process. We believe that IDEM meant to include such a provision because 327 IAC 2-1.3-2(67) contains a definition of variance, a term that is not otherwise used in this proposed new rule.

The ISEG agrees with IDEM's proposal to expand the social or economic justification to include the positive benefits to the area of the discharges. For discharges that trigger an antidegradation review, we are supportive of the use of innovative projects that will result in an overall improvement of water quality in the watershed of the discharge.

In closing, the ISEG believes that a constructive antidegradation rule will contain reasonable triggers for review, appropriate exclusions from full review, and a sensible process for obtaining approvals.

Thank you for your consideration of these comments. If you have any questions please feel free to contact me at patrick.gorman@eptconsultants.com or phone at 219-836-1000.

Sincerely,



Patrick M. Gorman, P.E.
Facilitator, Indiana Steel Environmental Group



